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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,442	02/23/2004	Francis C. Dlubak	DLUB 64538	8528
7590 08/03/2007 Alan G. Towner Pietragallo, Bosick & Gordon One Oxford Center, 38th Floor 301 Grant Street Pittsburgh, PA 15219			EXAMINER WENDELL, MARK R	
			ART UNIT 3609	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,442

Applicant(s)

DLUBAK, FRANCIS C.

Examiner

Mark R. Wendell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8,9,15,20-24,28-30,48-55,57-59,64 and 67-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8,9,15,20-24,28-30,48-55,57-59,64 and 67-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species XVII (Figure 22, Claims 1-3, 5, 6, 8, 9, 15, 20-24, 28-30, 48-55, 57-59, 64, and 67-74) in the reply filed on 7/19/2007 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-6, 8-9, 15, 20-24, 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Lewkowitz (US 2003/0188498). Regarding claim 1, Lewkowitz illustrates in Figure 3 a blast resistant assembly comprising:

- A frame (37);
- A composite panel having at least one glass sheet (27, 28) and at least one polymeric layer (30) mounted in the frame (37);

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- At least one retainer (42, 82, 89) extending from the frame (37) and at least partially embedded in the polymeric layer (30). The examiner notes that the retainer (82) is fastened, or embedded, through the polymeric layer (30) into the frame (37).

Regarding claim 2, Lewkowitz illustrates in Figure 3 the composite panel comprising a plurality of glass sheets (27, 28) with the polymeric layer (30) located between.

Regarding claim 3, Lewkowitz illustrates in Figure 3 the retainer (42, 82, 89) comprising:

- A base (42) connected to the frame;
- An extension (82) connected to the base (42) where the extension is at least partially embedded in the polymeric layer (30).

Regarding claim 5, Lewkowitz illustrates in Figure 3 the base (42) being a separate part installed in the frame (37).

Regarding claim 6, Lewkowitz illustrates in Figure 3 the extension (82) comprising two opposed faces contacting the polymeric layer (30).

Regarding claims 8 and 9, Lewkowitz illustrates in Figure 3 the extension (82) comprising serrated surface features for securing it within the polymeric layer (30). The

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examiner notes that it is well known in the art that a fastener, or screw, has a serrated surface.

Regarding claim 15, Lewkowitz illustrates in Figure 3 the base (42) having a generally rectangular cross section.

Regarding claims 20-22, Lewkowitz illustrates in Figure 3 a retainer (42) that is both slidably and pivotally mounted to the frame (37). The examiner notes that the extension (82), or screw, allows the retainer to pivot. Also, the examiner notes that the retainer slides into the groove formed by the glass (27), polymeric layer (30), and the frame (37).

Regarding claims 23-24, Lewkowitz illustrates in Figure 3 a composite panel with glass layers (27, 28) and a polymeric layer (30) in between. The examiner notes that the terms "formed by" render the claims product by process. A quote from MPEP 2113 states, "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)."

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Regarding claim 29, Lewkowitz illustrates in the Figure 3 a retainer (42) that discontinuously surrounds the composite panel.

Regarding claim 30, Lewkowitz illustrates in the Figure 3 the composite panel (27, 28, 30) having a flat surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewkowitz (US 2003/0188498) in view of Farrar (US 6425215). It is discussed above what is disclosed by Lewkowitz, however Lewkowitz does not teach the retainer continuously surrounding the composite panel. Farrar illustrates in Figure 2 a retainer (102) continuously surrounding the composite panel (170, 176). It would have been obvious to one having ordinary skill in the art at the time of invention to combine the blast resistant assembly of Lewkowitz with the continuous retainer to Farrar in order to provide more support and an airtight seal to the composite panel.

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Claims 48-51, 55, 57-59, 64, 67-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewkowitz (US 2003/0188498) in view of Bayley (US 2161791). It is discussed above what is disclosed by Lewkowitz, however Lewkowitz does not teach both an inner and outer frame where the inner frame is pivotally mounted to the outer frame. Regarding claim 48, Bayley illustrates in Figure 1 a window assembly with an inner frame (20) pivotally connected to an outer frame (22). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the blast resistant assembly of Lewkowitz with the inner and outer frame structure of Bayley for ventilation purposes (Bayley, Column 1, lines 19-22).

Regarding claim 49, Lewkowitz illustrates in Figure 3 a retainer (42) within the inner frame (37).

Regarding claim 50, Bayley illustrates in Figure 1 the inner frame (20) being pivotal between an open and closed position with the outer frame (22).

Regarding claim 51, Bayley illustrates in Figure 1 the inner frame (20) being removable from the outer frame (22). The examiner notes that one would only need to remove the fastening member within the hinge to remove the inner frame from the outer frame.

Regarding claim 55, Lewkowitz illustrates in the Figure 3 the composite panel (27, 28, 30) having a flat surface.

Regarding claim 57, Lewkowitz illustrates in Figure 3 a blast resistant assembly comprising:

- A composite panel having at least one glass sheet (27, 28) and at least one polymeric layer (30) mounted in the frame (37);
- At least one retainer (42, 82, 89) extending from the inner frame (37) and at least partially embedded in the polymeric layer (30).

Bayley illustrates in Figure 1 a window assembly with an inner frame (20) pivotally connected to an outer frame (22). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the blast resistant assembly of Lewkowitz with the inner and outer frame structure of Bayley for ventilation purposes (Bayley, Column 1, lines 19-22).

Regarding claims 58 and 59, Lewkowitz illustrates in Figure 3 the extension (82) comprising serrated surface features for securing it within the polymeric layer (30).

Regarding claim 64, Lewkowitz illustrates in Figure 3 the base (42) having a generally rectangular cross section.

Regarding claims 67-69, Lewkowitz illustrates in Figure 3 a retainer (42) that is both slidably and pivotally mounted to the inner frame (37). The examiner notes that the extension (82), or screw, allows the retainer to pivot. Also, the examiner notes that the

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retainer slides into the groove formed by the glass (27), polymeric layer (30), and the inner frame (37).

Regarding claim 70, Bayley illustrates in Figure 1 the inner frame (20) being pivotal between an open and closed position with the outer frame (22).

Regarding claim 71, Bayley illustrates in Figure 1 the inner frame (20) being removable from the outer frame (22). The examiner notes that one would only need to remove the fastening member within the hinge to remove the inner frame from the outer frame.

Claims 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewkowitz (US 2003/0188498) in view of Bayley (US 2161791) as applied to claims 48-51, 55, 57-59, 64, 67-71 above, and in further view of Handell (US 1589957). It is described above what is disclosed by both Lewkowitz and Bayley, however neither teaches pin and hinge members for securing the inner frame to the outer frame.

Handell illustrates in Figure 1:

- At least one hinge member (18) positioned on the inner surface (11) having a longitudinal hole (Figure 6, item 17);
- At least one pin (25) mounted within the longitudinal hole (17) on the hinge member (18);

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It would have been obvious to one having ordinary skill in the art at the time of invention to modify the blast resistant assembly of Lewkowitz as modified by Bayley to include the pin and hinge members of Handell for easy attachment and detachment of the inner frame from the outer frame.

Regarding claim 73, Handell illustrates in Figure 1 a slidable bar (24) for mounting the pin.

Regarding claim 74, Handell illustrates in Figure 1 a handle (31) mounted to the slidable bar (24)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rider (US 2226833) teaches a bulletproof glass mounting unit. Hoffman (US 2486407) teaches an awning type window that pivots with hinges. Drake et al. (US 2398886) illustrates in Figures 2 and 3 a plate embedded into the polymeric layer (15). Watkins (US 2374057) illustrates in Figure 2 a fastener (15) and plate (12a) embedded into the polymeric layer (11)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Supervisory Patent Examiner
Art Unit 3609

MRW
July 26, 2007